

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

ZHANNA CHIZHIK,
Administratrix of the Estate of
Grigory Chizhik,
Plaintiff,

v.

DOCKET NO: 04-10106JLT

**SEA HUNT, INC., TROPICLAND
MARINE AND TACKLE, INC., and
GREGORY ZILBERMAN,
Defendants.**

MOTION OF THE DEFENDANT, GREGORY ZILBERMAN, TO DISMISS
COUNT III OF THE CROSS-CLAIM OF TROPICLAND, INC.

The defendant, Gregory Zilberman (“Zilberman”), pursuant to Fed. R. Civ. P. 12(b)(6), hereby moves to dismiss Count III of the Defendant Tropicland, Inc’s (“Tropicland”) cross-claim against Zilberman. Zilberman so moves on the grounds that the count for common law indemnity fails to state a claim upon which relief may be granted.¹

In further support, Zilberman submits herewith the attached memorandum of law.

**REQUEST FOR ORAL ARGUMENT PURSUANT TO LOCAL
RULE 7.1(D)**

¹ Zilberman does not move to dismiss the court against it for contribution, although he denies any negligence and thus any liability on such a theory.

Respectfully submitted,
The Defendant-in-Cross-claim,
Gregory Zilberman,
By his attorneys,

/s/ Philip M. Hirshberg

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Dated: October 20, 2004

L.R.D. MASS. 7.1(A)(2) CERTIFICATION

I, Philip M. Hirshberg, Esquire, counsel for the moving defendant, hereby certify that pursuant to L. R. D. Mass. 7.1(A)(2), I have conferred in good faith with counsel for the plaintiff-in-cross-claim to resolve or narrow the issues presented by the within Motion, and have been unsuccessful.

/s/ Philip M. Hirshberg

Philip M. Hirshberg, Esq.